IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8143 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PANDIT JAGDEEP JANAKRAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8143 of 2003

PARTY-IN-PERSON for Petitioner No. 1

MR.M.S. RAO, ASSISTANT GOVERNMENT PLEADER for Respondent No. 1-1/4

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 17/01/2004

ORAL JUDGEMENT

This petition is filed complaining against the adverse remarks made in the service record of the

petitioner for the period from 1.4.1994 to 31.3.1995; 1.4.1995 to 5.9.1995; and 10.8.1996 to 10.3.1997. Earlier the petitioner had approached this Court by Special Civil Application No.5288 of 2003 wherein a grievance was made that the petitioner was communicated adverse remarks very late, i.e. after lapse of more than six years. It was also stated in the said petition that the petitioner had made a representation to the Commissioner of Medical Health Services and Medical Education Department, but the same was not considered and replied by the authorities. This Court (Coram: P.B. Majmudar, J.) by order dated 5.5.2003 directed the respondents to decide the representations latest by 30.6.2003. The Court was pleased to reserve liberty to the petitioner to challenge the decision if the same is against him, in accordance with law. The representations of the petitioner are decided by three orders, copies of which are placed at Annexures 'M', 'N' and 'O' dated 30.5.2003, 3.0.5.2003 and 2.6.2003. Despite the fact that the said representations are decided after the aforesaid order of this Court dated 5.5.2003 was communicated to the respondents, the respondents have decided the representations not only by a non speaking order, but even without making any reference of the order of this Court. The respondents have not set out any reasons for which the representation of the petitioner is rejected. In view of that all the three orders are quashed and set aside solely on the ground of being non speaking orders. Communication of adverse remarks after lapse of six years is a matter which requires consideration and therefore, this Court had directed the respondents to decide the representations. Not only that the Court had observed,

> ".. .. At that time, the question about delay in communicating the adverse remarks may be taken into consideration. .. .."

The respondents were expected to comply with the order of this Court in its true spirit and should have considered the representation and should have decided the same by a speaking order. The authorities are directed to decide the representations of the petitioner afresh latest by 27.2.2004 and communicate the decision by a 'Registered Post Acknowledge Due' letter. The petition is accordingly allowed. Rule is made absolute. No order as to costs.

(Ravi R. Tripathi, J.)

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